

NOTICE OF INTENT

Department of Environmental Quality
Office of Environmental Assessment
Environmental Planning Division

Concentrated Animal Feeding Operations (LAC 33:IX.2331, 2335, 2345, 2357, and 2533) (WQ050*)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Water Quality regulations, LAC 33:IX.2331, 2335, 2345, 2357, and 2533 (Log #WQ050*).

This proposed rule is identical to federal regulations found in 68 FR 7265-7269, No. 29, 2/12/03, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 765-0399 or Box 4314, Baton Rouge, LA 70821-4314. No fiscal or economic impact will result from the proposed rule; therefore, the rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

This proposed rule ensures that concentrated animal feeding operations (CAFOs) take appropriate actions to manage manure effectively in order to protect the state's water quality. Improperly managed manure has caused serious, acute, and chronic water problems. This rule will strengthen the requirements for CAFOs. The rule establishes a mandatory requirement for all CAFOs to apply for an LPDES permit and to develop and implement a nutrient management plan. The revised guidelines establish performance expectations for existing and new sources to ensure appropriate storage of manure, as well as expectations for proper land application practices at the CAFO. This rulemaking is necessary to maintain delegation, authorization, etc., granted to Louisiana by EPA and to keep Louisiana's water regulations current with their federal counterpart. The basis and rationale for this rule are to protect the waters of the state of Louisiana and to mirror the federal regulations in order to maintain equivalency.

This proposed rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

A public hearing will be held on July 25, 2003, at 1:30 p.m. in the Galvez Building, Room C111, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Lynn Wilbanks at the address given below or at (225) 765-0399.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by WQ050*. Such comments must be received no later than July 25, 2003, at 4:30 p.m., and should be sent to Lynn Wilbanks, Regulation Development Section, Box 4314, Baton Rouge, LA 70821-4314 or by e-mail to lynnw@ldeq.org. The comment period for this rule ends on the same date as the public hearing. Copies of this proposed regulation can be purchased by contacting the DEQ Records Management Section at (225) 765-0843. Check or money order is required in advance for each copy of WQ050*.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 201 Evans Road, Building 4, Suite 420, New Orleans, LA 70123; 111 New Center Drive, Lafayette, LA 70508; 104 Lococo Drive, Raceland, LA 70394 or on the Internet at <http://www.deq.state.la.us/planning/regs/index.htm>. It is anticipated that the DEQ Headquarters move from 7290 Bluebonnet Boulevard to 602 N. Fifth Street, Baton Rouge, LA, will be completed by mid-July.

James H. Brent, Ph.D.
Assistant Secretary

Title 33
ENVIRONMENTAL QUALITY
Part IX. Water Quality

Chapter 23. The LPDES Program

Subchapter B. Permit Application and Special LPDES Program Requirements

§2331. Application for a Permit

A. Duty to Apply

1. Any person who discharges or proposes to discharge pollutants or who owns or operates a sludge-only facility whose sewage sludge use or disposal practice is regulated by 40 CFR Part 503, and who does not have an effective permit, except persons covered by general permits under LAC 33:IX.2345, or discharges excluded under LAC 33:IX.2315, or a user of a privately owned treatment works unless the state administrative authority requires otherwise under LAC 33:IX.2361.M, must submit a complete application to the Office of Environmental Services, Permits Division in accordance with this Section and LAC 33:IX.Chapter 23.Subchapters E-G. All concentrated animal feeding operations have a duty to seek coverage under an LPDES permit as described in LAC 33:IX.2335.D.

A.2.-I. ...

1. For concentrated animal feeding operations (CAFOs):
 - ~~a. the type and number of animals in open confinement and housed under roof;~~
 - ~~b. the number of acres used for confinement feeding; and~~
 - ~~c. the design basis for the runoff diversion and control system, if one exists, including the number of acres of contributing drainage, the storage capacity, and the design safety factor.~~
 - a. the name of the owner or operator;
 - b. the facility location and mailing address(es);
 - c. the latitude and longitude of the production area (entrance to production area);
 - d. a topographic map of the geographic area in which the CAFO is located showing the specific location of the production area, in lieu of the requirements of Paragraph F.7 of this Section;
 - e. specific information about the number and type of animals, whether in open confinement or housed under roof (beef cattle, broilers, layers, swine weighing 55 pounds or more, swine weighing less than 55 pounds, mature dairy cows, dairy heifers, veal calves, sheep and lambs, horses, ducks, turkeys, other);
 - f. the type of containment and storage (anaerobic lagoon, roofed storage shed, storage ponds, underfloor pits, above ground storage tanks, below ground storage tanks, concrete pad, impervious soil pad, other) and total capacity for manure, litter, and process wastewater storage (tons/gallons);

- g. the total number of acres under control of the applicant available for land application of manure, litter, or process wastewater;
- h. the estimated amounts of manure, litter, and process wastewater generated per year (tons/gallons);
- i. the estimated amounts of manure, litter, and process wastewater transferred to other persons per year (tons/gallons); and
- j. for CAFOs that must seek coverage under a permit after December 31, 2006, certification that a nutrient management plan has been completed and will be implemented upon the date of permit coverage.

I.2. – R.4.h. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:723 (June 1997), amended by the Office of the Secretary, LR 25:661 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2552 (November 2000), LR 26:2756 (December 2000), LR 27:45 (January 2001), LR 28:465 (March 2002), LR 28:1766 (August 2002), LR 29:

§2335. Concentrated Animal Feeding Operations

~~A. Permit Requirement. Concentrated animal feeding operations are point sources subject to the LPDES permit program.~~

~~B. Two or more animal feeding operations under common ownership are considered, for the purposes of these regulations, to be a single animal feeding operation if they adjoin each other or if they use a common area or system for the disposal of wastes.~~

~~C. Case by Case Designation of Concentrated Animal Feeding Operations~~

~~1. The state administrative authority may designate any animal feeding operation as a concentrated animal feeding operation upon determining that it is a significant contributor of pollution to the waters of the state. In making this designation the state administrative authority shall consider the following factors:~~

~~a. the size of the animal feeding operation and the amount of wastes reaching waters of the state;~~

~~b. the location of the animal feeding operation relative to waters of the state;~~

~~c. the means of conveyance of animal wastes and process wastewaters into waters of the state;~~

~~d. the slope, vegetation, rainfall, and other factors affecting the likelihood or frequency of discharge of animal wastes and process wastewaters into waters of the state; and~~

~~e. other relevant factors.~~

~~2. No animal feeding operation with less than the numbers of animals set forth in LAC 33:IX.Chapter 23.Appendix B shall be designated as a concentrated animal feeding operation unless:~~

~~a. pollutants are discharged into waters of the state through a manmade ditch, flushing system, or other similar manmade device; or~~

~~b. pollutants are discharged directly into waters of the state which originate outside of the facility and pass over, across, or through the facility or otherwise come into direct contact with the animals confined in the operation.~~

~~3. A permit application shall not be required from a concentrated animal feeding operation designated under this Section until the state administrative authority has conducted an on-site inspection of the operation and determined that the operation should and could be regulated under the permit program.~~

A. Permit Requirement for CAFOs. Concentrated animal feeding operations, as defined in Subsection B of this Section, are point sources that require LPDES permits for discharges or potential discharges. Once an operation is defined as a CAFO, the LPDES requirements for CAFOs apply with respect to all animals in confinement at the operation and all manure, litter, and process wastewater generated by those animals or the production of those animals, regardless of the type of animal.

B. Definitions Applicable to this Section

Animal Feeding Operation (AFO)—a lot or facility (other than an aquatic animal production facility) where the following conditions are met:

a. animals (other than aquatic animals) have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period; and

b. crops, vegetation, forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility.

Concentrated Animal Feeding Operation (CAFO)—an AFO that is defined as a *Large CAFO* or as a *Medium CAFO* by the terms of this Subsection, or that is designated as a CAFO in accordance with Subsection C of this Section. Two or more AFOs under common ownership are considered to be a single AFO for the purposes of determining the number of animals at an operation, if they adjoin each other or if they use a common area or system for the disposal of wastes.

Land Application Area—land under the control of an AFO owner or operator, whether it is owned, rented, or leased, to which manure, litter, or process wastewater from the production area is or may be applied.

Large Concentrated Animal Feeding Operation (Large CAFO)—an AFO that stables or confines as many as or more than the numbers of animals specified in any of the following categories:

a. 700 mature dairy cows, whether milked or dry;

b. 1,000 veal calves;

c. 1,000 cattle other than mature dairy cows or veal calves

(Cattle includes but is not limited to heifers, steers, bulls, and cow/calf pairs.);

d. 2,500 swine, each weighing 55 pounds or more;

e. 10,000 swine, each weighing less than 55 pounds;

- f. 500 horses;
- g. 10,000 sheep or lambs;
- h. 55,000 turkeys;
- i. 30,000 laying hens or broilers, if the AFO uses a liquid manure handling system;
- j. 125,000 chickens (other than laying hens), if the AFO uses other than a liquid manure handling system;
- k. 82,000 laying hens, if the AFO uses other than a liquid manure handling system;
- l. 30,000 ducks, if the AFO uses other than a liquid manure handling system; or
- m. 5,000 ducks, if the AFO uses a liquid manure handling system.

Manure—includes manure, bedding, compost, and raw materials or other materials commingled with manure or set aside for disposal.

Medium Concentrated Animal Feeding Operation (Medium CAFO)—includes any AFO with the type and number of animals that fall within any of the ranges listed in this definition and that has been defined or designated as a CAFO. An AFO is a Medium CAFO if:

- a. the type and number of animals that it stables or confines falls within any of the following ranges:
 - i. 200 to 699 mature dairy cows, whether milked or dry;
 - ii. 300 to 999 veal calves;
 - iii. 300 to 999 cattle other than mature dairy cows or veal calves (*Cattle* includes but is not limited to heifers, steers, bulls, and cow/calf pairs.);
 - iv. 750 to 2,499 swine, each weighing 55 pounds or more;
 - v. 3,000 to 9,999 swine, each weighing less than 55 pounds;
 - vi. 150 to 499 horses;
 - vii. 3,000 to 9,999 sheep or lambs;
 - viii. 16,500 to 54,999 turkeys;
 - ix. 9,000 to 29,999 laying hens or broilers, if the AFO uses a liquid manure handling system;
 - x. 37,500 to 124,999 chickens (other than laying hens), if the AFO uses other than a liquid manure handling system;
 - xi. 25,000 to 81,999 laying hens, if the AFO uses other than a liquid manure handling system;
 - xii. 10,000 to 29,999 ducks, if the AFO uses other than a liquid manure handling system; or
 - xiii. 1,500 to 4,999 ducks, if the AFO uses a liquid manure handling system; and
- b. either one of the following conditions are met:
 - i. pollutants are discharged into waters of the state through a manmade ditch, flushing system, or other similar manmade device; or

ii. pollutants are discharged directly into waters of the state that originate outside of and pass over, across, or through the facility or otherwise come into direct contact with the animals confined in the operation.

Process Wastewater—water directly or indirectly used in the operation of the AFO for any or all of the following: spillage or overflow from animal or poultry watering systems; washing, cleaning, or flushing pens, barns, manure pits, or other AFO facilities; direct contact swimming, washing, or spray cooling of animals; or dust control. *Process wastewater* also includes any water that comes into contact with any raw materials, products, or byproducts including manure, litter, feed, milk, eggs, or bedding.

Production Area—that part of an AFO that includes the animal confinement area, the manure storage area, the raw materials storage area, and the waste containment areas. The animal confinement area includes, but is not limited to, open lots, housed lots, feedlots, confinement houses, stall barns, free stall barns, milkrooms, milking centers, cowyards, barnyards, medication pens, walkers, animal walkways, and stables. The manure storage area includes, but is not limited to, lagoons, runoff ponds, storage sheds, stockpiles, under-house or pit storages, liquid impoundments, static piles, and composting piles. The raw materials storage area includes, but is not limited to, feed silos, silage bunkers, and bedding materials. The waste containment area includes, but is not limited to, settling basins and areas within berms and diversions that separate uncontaminated storm water. Also included in the definition of *production area* are any egg washing or egg processing facility and any area used in the storage, handling, treatment, or disposal of mortalities.

Small Concentrated Animal Feeding Operation (Small CAFO)—an AFO that is designated as a CAFO and is not a *Medium CAFO*.

C. How May an AFO be Designated as a CAFO? The appropriate authority (i.e., state administrative authority or regional administrator, or both, as specified in Paragraph C.1 of this Section) may designate any AFO as a CAFO upon determining that it is a significant contributor of pollutants to waters of the state.

1. Who May Designate?

a. Approved States. In states that are approved or authorized by EPA under 40 CFR Part 123, CAFO designations may be made by the state administrative authority. The regional administrator may also designate CAFOs in approved states, but only where the regional administrator has determined that one or more pollutants in the AFO's discharge contributes to an impairment in a downstream or adjacent state or Indian country water that is impaired for that pollutant.

b. States With No Approved Program. The regional administrator may designate CAFOs in states that do not have an approved program and in Indian country where no entity has expressly demonstrated authority and has been expressly authorized by EPA to implement the NPDES program.

2. In making this designation, the state administrative authority or the regional administrator shall consider the following factors:

a. the size of the AFO and the amount of wastes reaching waters of the state;

b. the location of the AFO relative to waters of the state;

c. the means of conveyance of animal wastes and process wastewaters into waters of the state;

d. the slope, vegetation, rainfall, and other factors affecting the likelihood or frequency of discharge of animal wastes, manure, and process wastewaters into waters of the state; and

e. other relevant factors.

3. No AFO shall be designated under this Subsection unless the state administrative authority or the regional administrator has conducted an on-site inspection of the operation and determined that the operation should and could be regulated under the permit program. In addition, no AFO with numbers of animals below those established in the definition of *Medium CAFO* in Subsection B of this Section may be designated as a CAFO unless:

a. pollutants are discharged into waters of the state through a manmade ditch, flushing system, or other similar manmade device; or

b. pollutants are discharged directly into waters of the state that originate outside of the facility and pass over, across, or through the facility or otherwise come into direct contact with the animals confined in the operation.

D. Who Must Seek Coverage Under an LPDES Permit?

1. All CAFO owners or operators must apply for a permit. All CAFO owners or operators must seek coverage under an LPDES permit, except as provided in Paragraph D.2 of this Section. Specifically, the CAFO owner or operator must either apply for an individual LPDES permit or submit a notice of intent for coverage under an LPDES general permit. If the state administrative authority has not made a general permit available to the CAFO, the CAFO owner or operator must submit an application for an individual permit to the state administrative authority.

2. Exception. An owner or operator of a Large CAFO does not need to seek coverage under an LPDES permit otherwise required by this Section once the owner or operator has received from the state administrative authority notification of a determination under Subsection F of this Section that the CAFO has "no potential to discharge" manure, litter, or process wastewater.

3. Information to Submit with Permit Application. A permit application for an individual permit must include the information specified in LAC 33:IX.2331. A notice of intent for a general permit must include the information specified in LAC 33:IX.2331 and LAC 33:IX.2345.

E. Land application discharges from a CAFO are subject to LPDES requirements. The discharge of manure, litter, or process wastewater to waters of the state from a CAFO as a result of the application of that manure, litter, or process wastewater by the CAFO to land areas under its control is a discharge from that CAFO subject to LPDES permit requirements, except where it is an agricultural storm water discharge as provided in 33 U.S.C. 1362(14). For purposes of this Subsection, where the manure, litter, or process wastewater has been applied in accordance with site-specific nutrient management practices that ensure appropriate agricultural utilization of the nutrients in the manure, litter, or process wastewater, as specified under LAC 33:IX.2357.E.1.f-i, a precipitation-related discharge of manure, litter, or process wastewater from land areas under the control of a CAFO is an agricultural storm water discharge.

F. "No Potential to Discharge" Determinations for Large CAFOs

1. Determination by the State Administrative Authority. The state administrative authority, upon request, may make a case-specific determination that a

Large CAFO has "no potential to discharge" pollutants to waters of the state. In making this determination, the state administrative authority must consider the potential for discharges from both the production area and any land application areas. The state administrative authority must also consider any record of prior discharges by the CAFO. In no case may the CAFO be determined to have "no potential to discharge" if it has had a discharge within the five years prior to the date of the request submitted under Paragraph F.2 of this Section. For purposes of this Section, the term "no potential to discharge" means that there is no potential for any CAFO manure, litter, or process wastewater to be added to waters of the state under any circumstance or climatic condition. A determination that there is "no potential to discharge" for purposes of this Section only relates to discharges of manure, litter, and process wastewater covered by this Section.

2. Information to Support a "No Potential to Discharge" Request. In requesting a determination of "no potential to discharge," the CAFO owner or operator must submit any information that would support such a determination within the time frame provided by the state administrative authority and in accordance with Subsections G and H of this Section. Such information must include all of the information specified in LAC 33:IX.2331.F and I.1.a-i. The state administrative authority has discretion to require additional information to supplement the request and may also gather additional information through on-site inspection of the CAFO.

3. Process for Making a "No Potential to Discharge" Determination. Before making a final decision to grant a "no potential to discharge" determination, the state administrative authority must issue a notice to the public stating that a "no potential to discharge" request has been received. This notice must be accompanied by a fact sheet that includes, when applicable, a brief description of the type of facility or activity that is the subject of the "no potential to discharge" determination, a brief summary of the factual basis upon which the request is based for granting the "no potential to discharge" determination, and a description of the procedures for reaching a final decision on the "no potential to discharge" determination. The state administrative authority must base the decision to grant a "no potential to discharge" determination on the administrative record, which includes all information submitted in support of a "no potential to discharge" determination and any other supporting data gathered by the permitting authority. The state administrative authority must notify any CAFO seeking a "no potential to discharge" determination of its final determination within 90 days of receiving the request.

4. What is the Deadline for Requesting a "No Potential to Discharge" Determination? The owner or operator must request a "no potential to discharge" determination by the applicable permit application date specified in Subsection G of this Section. If the state administrative authority's final decision is to deny the "no potential to discharge" determination, the owner or operator must seek coverage under a permit within 30 days after the denial.

5. The "no potential to discharge" determination does not relieve the CAFO from the consequences of an actual discharge. Any unpermitted CAFO that discharges pollutants into the waters of the state is in violation of the Clean Water Act even if it has received a "no potential to discharge" determination from the state administrative authority. Any CAFO that has received a determination of "no potential to

discharge," but which anticipates changes in circumstances that could create the potential for a discharge, should contact the state administrative authority and apply for and obtain permit authorization prior to the change of circumstances.

6. The state administrative authority retains authority to require a permit. When the state administrative authority has issued a determination of "no potential to discharge," the state administrative authority retains the authority to subsequently require LPDES permit coverage if circumstances at the facility change, if new information becomes available, or if there is another reason for the state administrative authority to determine that the CAFO has a potential to discharge.

G. When Must a CAFO Seek Coverage Under an LPDES Permit?

1. Operations Defined as CAFOs Prior to April 14, 2003. For operations that were defined as CAFOs under regulations that were in effect prior to April 14, 2003, the owner or operator must have or seek to obtain coverage under an LPDES permit as of April 14, 2003, and comply with all applicable LPDES requirements, including the duty to maintain permit coverage in accordance with Subsection H of this Section.

2. Operations Defined as CAFOs as of April 14, 2003, Which Were Not Defined as CAFOs Prior to That Date. For all such CAFOs, the owner or operator of the CAFO must seek to obtain coverage under an LPDES permit by a date specified by the state administrative authority, but no later than February 13, 2006.

3. Operations That Become Defined as CAFOs After April 14, 2003, but Which Are Not New Sources. For newly constructed AFOs and AFOs that make changes to their operations that result in becoming defined as CAFOs for the first time after April 14, 2003, but are not new sources, the owner or operator must seek to obtain coverage under an LPDES permit, as follows:

a. for newly constructed operations not subject to effluent limitations guidelines, 180 days prior to the time the CAFO commences operation; or

b. for other operations (e.g., resulting from an increase in the number of animals), as soon as possible, but no later than 90 days after becoming defined as a CAFO; except that

c. if an operational change that makes the operation a CAFO would not have made it a CAFO prior to April 14, 2003, the operation has until April 13, 2006, or 90 days after becoming defined as a CAFO, whichever is later.

4. New Sources. New sources must seek to obtain coverage under a permit at least 180 days prior to the time that the CAFO commences operation.

5. Operations That are Designated as CAFOs. For operations designated as a CAFO in accordance with Subsection C of this Section, the owner or operator must seek to obtain coverage under a permit no later than 90 days after receiving notice of the designation.

6. No Potential to Discharge. Notwithstanding any other provision of this Section, a CAFO that has received a "no potential to discharge" determination in accordance with Subsection F of this Section is not required to seek coverage under an LPDES permit that would otherwise be required by this Section. If circumstances materially change at a CAFO that has received a "no potential to discharge" determination, such that the CAFO has a potential for a discharge, the CAFO has a duty

to immediately notify the state administrative authority and seek coverage under an LPDES permit within 30 days after the change in circumstances.

H. Duty to Maintain Permit Coverage. No later than 180 days before the expiration of a permit, the permittee must submit an application to renew its permit, in accordance with LAC 33:IX.2331.G. However, the permittee need not continue to seek continued permit coverage or reapply for a permit if:

1. the facility has ceased operation or is no longer a CAFO; and
2. the permittee has demonstrated to the satisfaction of the state

administrative authority that there is no remaining potential for a discharge of manure, litter, or associated process wastewater that was generated while the operation was a CAFO, other than agricultural storm water from land application areas.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 28:467 (March 2002), LR 29:

§2345. General Permits

A.-B.2.a. ...

b. The contents of the notice of intent shall be specified in the general permit and shall require the submission of information necessary for adequate program implementation, including at a minimum, the legal name and address of the owner or operator, the facility name and address, type of facility or discharges, and the receiving stream(s). General permits for storm water discharges associated with industrial activity from inactive mining, inactive oil and gas operations, or inactive landfills occurring on federal lands where an operator cannot be identified may contain alternative notice of intent requirements. All notices of intent shall be signed in accordance with LAC 33:IX.2333. Notices of intent for coverage under a general permit for concentrated animal feeding operations must include the information specified in LAC 33:IX.2331.I.1, including a topographic map.

B.2.c.-C.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21(September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2276 (October 2000), LR 26:2553 (November 2000), LR 28:468 (March 2002), LR 29:

Subchapter C. Permit Conditions

§2357. Additional Conditions Applicable to Specified Categories of LPDES Permits

The following conditions, in addition to those set forth in LAC 33:IX.2355, apply to all LPDES permits within the categories specified below:

A.-D. ...

E. Concentrated Animal Feeding Operations (CAFOs). Any permit issued to a CAFO must include the following requirements.

1. Requirements to Develop and Implement a Nutrient Management Plan. At a minimum, a nutrient management plan must include best management practices and procedures necessary to implement applicable effluent limitations and standards. Permitted CAFOs must have their nutrient management plans developed and implemented by December 31, 2006. CAFOs that seek to obtain coverage under a permit after December 31, 2006, must have a nutrient management plan developed and implemented upon the date of permit coverage. The nutrient management plan must, to the extent applicable:

a. ensure adequate storage of manure, litter, and process wastewater, including procedures to ensure proper operation and maintenance of the storage facilities;

b. ensure proper management of mortalities (i.e., dead animals) to ensure that they are not disposed of in a liquid manure, storm water, or process wastewater storage or treatment system that is not specifically designed to treat animal mortalities;

c. ensure that clean water is diverted, as appropriate, from the production area;

d. prevent direct contact of confined animals with waters of the state;

e. ensure that chemicals and other contaminants handled on-site are not disposed of in any manure, litter, process wastewater, or storm water storage or treatment system that is not specifically designed to treat such chemicals and other contaminants;

f. identify appropriate site-specific conservation practices to be implemented, including as appropriate, buffers or equivalent practices, to control runoff of pollutants to waters of the state;

g. identify protocols for appropriate testing of manure, litter, process wastewater, and soil;

h. establish protocols to land-apply manure, litter, or process wastewater in accordance with site-specific nutrient management practices that ensure appropriate agricultural utilization of the nutrients in the manure, litter, or process wastewater; and

i. identify specific records that will be maintained to document the implementation and management of the minimum elements described in Subparagraphs E.1.a-h of this Section.

2. Recordkeeping Requirements

a. The permittee must create, maintain for five years, and make available to the state administrative authority, upon request, the following records:

i. all applicable records identified in accordance with Subparagraph E.1.i of this Section; and

ii. in addition, all CAFOs subject to 40 CFR Part 412 must comply with recordkeeping requirements as specified in LAC 33:IX.2533.

b. A copy of the CAFO's site-specific nutrient management plan must be maintained on-site and made available to the state administrative authority upon request.

3. Requirements Relating to Transfer of Manure or Process Wastewater to Other Persons. Prior to transferring manure, litter, or process wastewater to other persons, Large CAFOs must provide the recipient of the manure, litter, or process wastewater with the most current nutrient analysis. The analysis provided must be consistent with the requirements of 40 CFR Part 412. Large CAFOs must retain for five years records of the date, the recipient's name and address, and the approximate amount of manure, litter, or process wastewater transferred to another person.

4. Annual Reporting Requirements for CAFOs. The permittee must submit an annual report to the state administrative authority. The annual report must include:

a. the number and type of animals, whether in open confinement or housed under roof (beef cattle, broilers, layers, swine weighing 55 pounds or more, swine weighing less than 55 pounds, mature dairy cows, dairy heifers, veal calves, sheep and lambs, horses, ducks, turkeys, other);

b. the estimated amount of total manure, litter, and process wastewater generated by the CAFO in the previous 12 months (tons/gallons);

c. the estimated amount of total manure, litter, and process wastewater transferred to other persons by the CAFO in the previous 12 months (tons/gallons);

d. the total number of acres for land application covered by the nutrient management plan developed in accordance with Paragraph E.1 of this Section;

e. the total number of acres under control of the CAFO that were used for land application of manure, litter, and process wastewater in the previous 12 months;

f. a summary of all manure, litter, and process wastewater discharges from the production area that have occurred in the previous 12 months, including date, time, and approximate volume; and

g. a statement indicating whether the current version of the CAFO's nutrient management plan was developed or approved by a certified nutrient management planner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2554 (November 2000), LR 29:

Subchapter N. Incorporation by Reference

§2533. 40 CFR Chapter I, Subchapter N

A. 40 CFR, Chapter I, Subchapter N, Effluent Guidelines and Standards, Parts 401 and 405-471, July 1, 2002, and amendments to Part 420 in 67 FR 58997, September 19, 2002; ~~and~~ Part 430 in 67 FR 64260-64268, October 17, 2002; and Part 412 in 68 FR 7269, February 12, 2003 are hereby incorporated by reference.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:958 (August 1997), LR 25:1467 (August 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1609 (August 2000), LR 27:2232 (December 2001), LR 28:996 (May 2002), LR 29:700 (May 2003), LR 29: